

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

Jack N. Waulk,

Petitioner,

v.

Case No. 2:08-cv-405

Michael Sheets, Warden,

Judge Michael H. Watson

Respondent.

OPINION AND ORDER

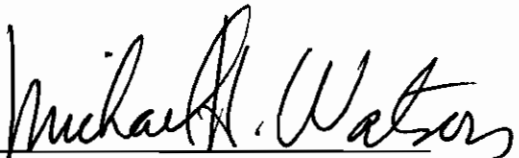
On October 23, 2008, the Magistrate Judge issued a *Report and Recommendation* recommending that the instant petition for a writ of habeas corpus be transferred to the United States Court of Appeals for the Sixth Circuit as a successive petition. Petitioner has filed a motion in response to that *Report and Recommendation*, in which petitioner requests an order of default against respondent and appears to request that his federal habeas corpus petition be combined with a civil action pending in the state court. See Doc. No. 14.

This Court lacks authority to order this federal habeas corpus action to be combined (or, as petitioner asks, “aggregate[d]”) with an action pending in a state court. Petitioner’s motion, Doc. No. 14, is therefore **DENIED**.

Petitioner also asks that respondent’s default be entered. Doc. No. 14. Respondent was granted until August 20, 2008, to respond to the petition. *Order*, Doc. No. 9. On that date, respondent filed a motion to transfer the action to the Court of Appeals as a successive petition. Doc. No. 10. Respondent is therefore not in default, and petitioner’s motion in that regard, Doc. No. 14, is **DENIED**.

Pursuant to 28 U.S.C. 636(b), this Court has conducted a *de novo* review of the Magistrate Judge's *Report and Recommendation*. For the reasons detailed therein, the *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action is hereby **TRANSFERRED** to the United States Court of Appeals for the Sixth Circuit as a successive petition.

IT IS SO ORDERED.



Michael H. Watson, Judge
United States District Court